

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 193 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed  
to see the judgements?

fs. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy  
of the judgement?

4. Whether this case involves a substantial question  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

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COMMISSIONER OF INCOME TAX

Versus

PURE BEVERAGES LIMITED

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Appearance:

MR RP BHATT for Petitioner

SERVED BY RPAD for Respondent No. 1

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CORAM : MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

Date of decision: 13/02/98

ORAL JUDGEMENT

The following question is referred to  
this Court for its opinion under section 56(1) of the  
Income-tax Act, 1961 at the instance of Revenue.

Whether the Appellate Tribunal has been right in  
law and on facts in holding that bottles and  
containers used by the assessee constituted  
"plant" and entire purchase price of the bottles

and containers is allowable as depreciation in view of the provisions of section 32(1)(ii) of the Income-tax Act, 1961 ?

2. The question whether the bottles and crates i.e. containers used by the assessee who was doing the business of manufacturing and selling soft drinks were eligible for depreciation allowance under section 32(1)(ii) of the said Act has been decided by us today in ITR No. 206 of 1985. We have taken the view that bottles and shells (crates) of the assessee which were used for his business were plant and therefore, the assessee could claim depreciation under section 32(1)(ii) of the said Act. Since the facts and the point involved are same, we do not reproduce the facts of this case from its record. Following our decision in ITR No. 206 of 1985, we hold that the Tribunal was right in holding that bottles and containers used by the assessee constituted "plant" and the entire purchase price thereof was allowable as depreciation under section 32(1)(ii) of the said Act. The question referred to us therefore, is answered in the affirmative in favour of the Assessee and against Revenue. The Reference stands disposed of accordingly with no order as to costs.

(R.K.Abichandani,J)

(Kundan Singh,J)

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